



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**SB1909**

Introduced 2/25/2005, by Sen. William R. Haine

**SYNOPSIS AS INTRODUCED:**

415 ILCS 5/3.135

was 415 ILCS 5/3.94

Amends the Environmental Protection Act. Includes additional materials within the definition of "coal combustion by-product" (CCB). Provides that, in certain circumstances, the EPA must (instead of "may") make written beneficial use determinations that coal-combustion waste is a CCB. Sets forth the procedures for the application for and approval and renewal of a beneficial use determination. Provides that CCB for which a beneficial use determination is approved shall be considered CCB for as long as it is used in accordance with the approval and any conditions of the approval.

LRB094 09267 RSP 39503 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by  
5 changing Sections 3.135 and 39 and by adding Section 9.14 as  
6 follows:

7 (415 ILCS 5/3.135) (was 415 ILCS 5/3.94)

8 Sec. 3.135. Coal combustion by-product; CCB.

9 (a) "Coal combustion by-product" (CCB) means coal  
10 combustion waste when used beneficially in ~~for~~ any of the  
11 following ways ~~purposes~~:

12 (1) The extraction or recovery of material compounds  
13 contained within CCB.

14 (2) The use of CCB as a raw ingredient or mineral  
15 filler in the manufacture of the following commercial  
16 products: cement; concrete and concrete mortars;  
17 cementious ~~concrete~~ products including block, pipe and  
18 precast/prestressed components; asphalt or cementious  
19 ~~ement based~~ roofing products ~~shingles~~; plastic products  
20 including pipes and fittings; paints and metal alloys; kiln  
21 fired products including bricks, blocks, and tiles;  
22 abrasive media; gypsum wallboard; asphaltic concrete, or  
23 asphalt based paving material.

24 (3) CCB used (A) in accordance ~~conformance~~ with the  
25 Illinois Department of Transportation ("IDOT") standard  
26 specifications and subsection (a-5) of this Section or (B)  
27 ~~and~~ under the approval of the Department of Transportation  
28 for IDOT projects.

29 (4) Bottom ash used as antiskid material, athletic  
30 tracks, or foot paths.

31 (5) Use ~~as a substitute for lime (CaO and MgO)~~ in the  
32 lime stabilization or modification of soils providing the

1 CCB meets the IDOT ~~Illinois Department of Transportation~~  
2 ~~("IDOT")~~ specifications for soil modifiers ~~byproduct~~  
3 ~~limes~~.

4 (6) CCB used as a functionally equivalent substitute  
5 for agricultural lime as a soil conditioner.

6 (7) Bottom ash used in non-IDOT pavement sub-base or  
7 base, pipe bedding, or foundation backfill.

8 (8) Structural fill, when used in an engineered  
9 application or combined with cement, sand, or water to  
10 produce a controlled strength fill material and covered  
11 with 12 inches of soil unless infiltration is prevented by  
12 the material itself or other cover material.

13 (9) Mine subsidence, mine fire control, mine sealing,  
14 and mine reclamation.

15 (a-5) ~~(10)~~ Except to the extent that the uses are otherwise  
16 authorized by law without such restrictions, the uses specified  
17 in items (a) (3) (A) and (a) (7) through (a) (9) shall be subject  
18 to the following conditions:

19 (A) CCB shall not have been mixed with hazardous waste  
20 prior to use. †

21 (B) CCB shall not exceed Class I Groundwater Standards  
22 for the following parameters ~~metals~~ when tested utilizing  
23 test method ASTM D3987-85: arsenic, barium, boron,  
24 cadmium, antimony, beryllium, chloride, chromium, cobalt,  
25 copper, iron, lead, manganese, mercury, nickel, selenium,  
26 silver, sulfate, thallium, phenol, and zinc. The sample or  
27 samples tested shall be representative of the CCB being  
28 considered for use. †

29 (C) Unless otherwise exempted, users of CCB for the  
30 purposes described in items (a) (3) (A) and (a) (7) through  
31 (a) (9) of this Section shall provide notification to the  
32 Agency for each project utilizing CCB documenting the  
33 quantity of CCB utilized and certification of compliance  
34 with conditions (A) and (B) of this subsection.  
35 Notification shall not be required for users of CCB for  
36 purposes described in items (a) (1), (a) (2), (a) (3) (B), and

1 (a)(4) through (a)(6) of this Section, or as required  
2 specifically under a beneficial use determination as  
3 provided under this Section, or pavement base, parking lot  
4 base, or building base projects utilizing less than 10,000  
5 tons, flowable fill/grout projects utilizing less than  
6 1,000 cubic yards or other applications utilizing less than  
7 100 tons. †

8 (D) Fly ash shall be managed ~~applied~~ in a manner that  
9 minimizes the generation of airborne particles and dust  
10 using techniques such as moisture conditioning,  
11 granulating, inground application, or other demonstrated  
12 method. † ~~and~~

13 (E) CCB is not to be accumulated speculatively. CCB is  
14 not accumulated speculatively if during the calendar year,  
15 the CCB used is equal to 75% of the CCB by weight or volume  
16 accumulated at the beginning of the period.

17 (F) CCB shall include any prescribed mixture of fly  
18 ash, bottom ash, boiler slag, flue gas desulfurization  
19 scrubber sludge, fluidized bed combustion ash, and stoker  
20 boiler ash and shall be tested as intended for use.

21 (b) To encourage and promote the utilization of CCB in  
22 productive and beneficial applications, upon request by the  
23 applicant, the Agency shall ~~may~~ make a written beneficial use  
24 determination ~~determination~~ that coal-combustion waste is CCB  
25 when used in a manner other than those uses specified in  
26 subsection (a) of that specified in this Section if the  
27 applicant demonstrates that use of the coal-combustion waste  
28 satisfies all of the following criteria: the use will not  
29 cause, threaten, or allow the discharge of any contaminant into  
30 the environment; the use will otherwise protect human health  
31 and safety and the environment; and the use constitutes a  
32 legitimate use of the coal-combustion waste as an ingredient or  
33 raw material that is an effective substitute for an analogous  
34 ingredient or raw material ~~if the use has been shown to have no~~  
35 ~~adverse environmental impact greater than the beneficial uses~~  
36 ~~specified, in consultation with the Department of Mines and~~

1 ~~Minerals, the Illinois Clean Coal Institute, the Department of~~  
2 ~~Transportation, and such other agencies as may be appropriate.~~

3 The Agency's beneficial use determinations may allow the  
4 uses set forth in items (a)(3)(A) and (a)(7) through (a)(9) of  
5 this Section without the CCB being subject to the restrictions  
6 set forth in subdivisions (a-5)(B) and (a-5)(E) of this  
7 Section.

8 Within 90 days after the receipt of an application for a  
9 beneficial use determination under this subsection (b), the  
10 Agency shall, in writing, approve, disapprove, or approve with  
11 conditions the beneficial use. Any disapproval or approval with  
12 conditions shall include the Agency's reasons for the  
13 disapproval or conditions. Failure of the Agency to issue a  
14 decision within 90 days shall constitute disapproval of the  
15 beneficial use request. These beneficial use determinations  
16 are subject to review under Section 40 of this Act.

17 Any approval of a beneficial use under this subsection (b)  
18 shall become effective upon the date of the Agency's written  
19 decision and remain in effect for a period of 5 years. If an  
20 applicant desires to continue a beneficial use after the  
21 expiration of the 5-year period, the applicant must submit an  
22 application for renewal no later than 90 days prior to the  
23 expiration. The beneficial use approval shall be automatically  
24 extended unless denied by the Agency in writing with the  
25 Agency's reasons for disapproval, or unless the Agency has  
26 requested an extension for review, in which case the use will  
27 continue to be allowed until an Agency determination is made.

28 Coal-combustion waste for which a beneficial use is  
29 approved pursuant to this subsection (b) shall be considered  
30 CCB during the effective period of the approval, as long as it  
31 is used in accordance with the approval and any conditions.

32 The Board shall adopt rules establishing standards and  
33 procedures for the Agency's issuance of beneficial use  
34 determinations under this subsection (b). The Board rules may  
35 also, but are not required to, include standards and procedures  
36 for the revocation of the beneficial use determinations. Prior

1 to the effective date of Board rules adopted under this  
2 subsection (b), the Agency is authorized to make beneficial use  
3 determinations in accordance with this subsection (b).

4 The Agency is authorized to prepare and distribute guidance  
5 documents relating to its administration of this Section.  
6 Guidance documents prepared under this subsection are not rules  
7 for the purposes of the Illinois Administrative Procedure Act.

8 (Source: P.A. 92-574, eff. 6-26-02.)